

September 17, 2004

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L03S0031**

**NGY SHORT PLAT**  
Short Plat Appeal

Location: 17003 – 105th Avenue Southeast

Appellants: **Tim McCannon & Bonnie Bottesch**  
17007 – 105th Place Southeast  
Renton, Washington 98055  
Telephone: (425) 277-9569

Applicant: Teng Ngy  
*represented by* **Mark Olson**  
Cornerstone Engineering  
1000 Denny Way, #800  
Seattle, WA 98109  
Telephone: (206) 250-7306  
Facsimile: (206) 494-9460

King County: Department of Development and Environmental Services  
*represented by* **Fereshteh Dehkordi** and **Curt Foster**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055  
Telephone: (206) 296-7173 and 296-7106  
Facsimile: (206) 296-7051

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:  
Department's Final Recommendation:  
Examiner's Decision:

Deny appeal  
Deny appeal  
Appeal denied

**EXAMINER PROCEEDINGS:**

Hearing Opened: September 15, 2004  
Hearing Closed: September 15, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. On June 18, 2004, the King County Department of Development and Environmental Services issued a preliminary approval to Teng Ngy to short plat .41 acres in the R-8 zone into three lots for a single-family residential development. The property located at 17003 – 105th Avenue Southeast currently contains an existing residence that is being remodeled under a separate building permit. The three lots are proposed to be accessed from 105th Avenue Southeast via a common private driveway. The preliminary approval requires the Applicant to obtain a drainage adjustment to pump runoff uphill from the lots to a ditch that runs along 105th Avenue Southeast.
2. A timely appeal of the short plat approval was filed by Tim McCannon and Bonnie Bottesch, representing themselves and other neighborhood residents. A pre-hearing conference on the appeal was held by the King County Hearing Examiner's Office on August 19, 2004, and a pre-hearing order was issued on August 20, 2004. The appeal issues identified within the pre-hearing order concern the potential for failure within the Applicant's proposed drainage pump system, the allegation that the proposed short plat violates density and lot area requirements, and questions concerning the consistency of a street tree requirement with the installation of utility facilities and the adequacy of off-street parking for the lots. Certain other issues raised by the Appellants appeared to be more related to perceptions regarding the sloppiness of the work being done by the Applicant pursuant to his building permit for remodeling the existing residence, and DDES staff was requested to facilitate site inspections with respect to such issues. A summary of these inspection activities appears in the record as exhibit 9.
3. The DDES supplemental staff report (exhibit 4), as elaborated at the public hearing by the staff testimony, is responsive to the appeal issues. As indicated by staff, the drainage adjustment required of the Applicant for diversion of site runoff uphill to 105th Avenue Southeast will implement Surface Water Design manual requirements for dual alternating pumps, an alarm system for pump failure, and possibly a requirement for extra sump capacity sufficient to retain drainage flows when there is a temporary electrical power outage. These measures all need to be adequately described and documented by the Applicant prior to final engineering approval. In like manner, street trees to be planted on the site must be derived from an approved list of landscaping vegetation that has been selected for compatibility with utility development, and the Applicant will need to provide two off-street parking spaces on each lot consistent with code requirements.

4. The record also demonstrates that the short plat application meets existing zoning code requirements for density within the R-8 zone. Based on a parcel size of approximately 18,000 square feet and no deduction for submerged lands, the property supports development at approximately 3.3 units, thus warranting a three-lot plat with some square footage to spare.
5. The only contention raised by the Appellants that the staff report does not discuss in detail is the suggestion that proposed lot no. 3 at 3,410 square feet may be undersized. Because the zoning code now regulates development on the basis of overall density rather than minimum lot size, only minimal dimensional requirements must be met. KCC 21A.12.030 requires that any new lot created have a minimum width of at least 30 feet, and KCC 21A.12.100 mandates in urban residential zones a minimum lot area of 2500 square feet. All lots within the proposed short plat meet these minimum dimensional requirements.
6. Finally, while staff has no authority to impose upon an applicant development requirements in excess of those contained in County regulations, one nonetheless observes that the Ngy Short Plat is not as radical a departure from existing neighborhood patterns as argued by the Appellants. On the block bounded by 105th Avenue Southeast on the east and 104th Avenue Southeast on the west, and lying between Southeast 166th Street and SR 515, there appear currently to be 11 parcels (including the subject application) containing between 16,000 and 18,000 square feet. There are, however, another 18 lots that are half this size due to prior short platting activity. Thus the net effect of the current short plat application under R-8 zoning will be to create 3 lots on 18,000 square feet, instead of 2 lots within the same area as was permitted by prior zoning.

#### CONCLUSIONS:

1. The Appellants have not met their burden of proof to demonstrate that the preliminary approval conferred by DDES on June 18, 2004, for the Ngy Short Plat violated county platting or zoning requirements. The appeal therefore must be denied.

#### DECISION:

The appeal is DENIED.

ORDERED this 17th day of September, 2004.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 17th day of September, 2004, to the parties and interested persons of record:

Christopher & Michele Binkley 17032 - 104th Ave. SE Renton WA 98055	Hank & Eulaine Blumenthal 16830 - 105th Ave. SE Renton WA 98055	Javier & Lymara Casio 17031 - 105th Ave. SE Renton WA 98055
Heath & Miyumi Conner 17010 - 104th Ave. SE Renton WA 98055	Cornerstone Engineering Mark Olson 1000 Denny Way, #800 Seattle WA 98109	Barry Crampton 16820 - 105th Ave. SE Renton WA 98055
Jeff & Lynn Howard 17014 - 104th Ave. Se Renton WA 98055	Anthony & Patricia Juarez 16663 - 105th Ave. SE Renton WA 98055	Margaret King 16829 - 105th Ave. SE Renton WA 98055
Rebecca Lind City of Renton, EDNSP 1055 S. Grady Way Renton WA 98056	Bonnie Bottesch & Tim McCannon 17007 - 105th Ave. SE Renton WA 98055	Robert & Marjorie Midgett 17012 - 105th Ave. SE Renton WA 98055
Reggie Newman 17013 - 105th Ave. SE Renton WA 98055	Teng Nyg 5563 - 156th Ave. SE Bellevue WA 98006	Eugene Riske 16821 - 105th Ave. SE Renton WA 98055
Jay Seo Cornerstone Engineering 1000 Denny Way, #800 Seattle WA 98109	Darren & Bonnie Sweaney 17004 - 105th Ave. SE Renton WA 98055	Tom Touma Touma Engineers 6632 S 191st Pl, #E-102 Kent WA 98032
David & Wendy Yadock 17020 - 104th Ave. SE Renton WA 98055	Mark Bergam DDES / LUSD Engineering Review MS OAK-DE-0100	Fereshteh Dehkordi DDES/LUSD Current Planning MS OAK-DE-0100
Lisa Dinsmore DDES/LUSD MS OAK-DE-0100	Curt Foster DDES/LUSD Engineering Review Section MS OAK-DE-0100	Rich Hudson DDES/LUSD Current Planning MS OAK-DE-0100
Carol Rogers DDES/LUSD MS OAK-DE-0100		

### **NOTICE OF RIGHT TO APPEAL**

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision. The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.

#### **MINUTES OF THE SEPTEMBER 15, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03S0031.**

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Mark Bergam and Curt Foster, representing the Department; Tim McCannon, Bonnie Bottesch, the Appellants; Mark Olson, representing the Applicant and Jeff Howard.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File Nos. L03S0031 & L04AP010
- Exhibit No. 2 Preliminary approval letter, dated June 18, 2004
- Exhibit No. 3 Application received November 14, 2003
- Exhibit No. 4 DDES staff report for September 15, 2004, appeal hearing
- Exhibit No. 5 Site Plan received November 14, 2003
- Exhibit No. 6 Field Report dated January 8, 2003
- Exhibit No. 7 Level One Drainage Report dated November 13, 2003
- Exhibit No. 8 Appeal Statement received July 12, 2004
- Exhibit No. 9 Memo from Fereshteh Dehkordi to Stafford Smith dated September 2, 2004

SLS:ms  
L03S0031 RPT